



**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
LUFKIN DIVISION**

**UNITED STATES OF AMERICA**

**V.**

**FLOYD CHARLES LOUT**

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§

**CASE NO. 9:05-CR-31**

**REPORT AND RECOMMENDATION ON DEFENDANT'S COMPETENCY**

Pursuant to 28 U.S.C. § 636(b) and the Local Rules for the United States District Court for the Eastern District of Texas, this criminal proceeding is before the undersigned United States Magistrate Judge upon referral from the District Court. The Court now enters its recommendation that the District Court find the defendant, Floyd Charles Lout, competent to proceed.

**A.     Background and the Forensic Psychologist's Report**

On October 15, 2012, pursuant to the motion of counsel, the undersigned entered an order directing the mental examination of the defendant to determine his competency to proceed on the pending petition to revoke his supervised release. In that order, the Court directed that the defendant be committed to the custody of the Attorney General for placement in a suitable facility for examination by a psychiatrist or psychologist to determine whether, pursuant to 18 U.S.C. § 4241, he is suffering from a mental disease or defect rendering him mentally incompetent to the extent he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense.

The Court received notification from Jessica Micono, Forensic Psychologist with the Federal Correctional Institution (FCI) in Englewood, Colorado, that the forensic staff there had completed the mental health evaluation of Mr. Lout. The forensic psychologists evaluating Mr. Lout reported their opinion that the defendant is not currently suffering from a mental disease or defect rendering him unable to understand the nature and consequences of the proceedings against him or to properly assist in his defense.

The competency report, which reflects the examiners' method of evaluation and opinion in detail and sets forth the corresponding psychological findings and recommendations, was filed in the record under seal and provided to both the defendant's attorney and the attorney for the Government. On December 12, 2012, the Court conducted a competency hearing to address the findings set forth in the psychological report. Neither party objected to the report or the examiner's findings. Both parties also waived their right to object to this report and agreed to waiver of the time in which to file objections pursuant to 28 U.S.C. § 636(b)(1). Accordingly, this report will be submitted directly to the District Court for approval.

B. Conclusion and Recommendation

Accordingly, based upon the opinion issued by the forensic psychological examiners, the undersigned United States Magistrate Judge recommends that the District Court find the defendant, Floyd Charles Lout, competent to proceed pursuant to 18 U.S.C. § 4241.

**SIGNED this the 13rd day of December, 2012.**



KEITH F. GIBLIN  
UNITED STATES MAGISTRATE JUDGE